

AMENDED IN SENATE APRIL 30, 2012

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL

No. 1237

Introduced by Senator Price

February 23, 2012

An act to amend Sections 4001, 4003, 8000, 8005, 8027, 8030.2, and 8030.5 of the Business and Professions Code, relating to professions, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1237, as amended, Price. Professions: pharmacists, court reporters, and Transcript Reimbursement Fund: sunset dates.

(1) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacies, pharmacists, pharmacy technicians, wholesalers of dangerous drugs or devices, and others by the California State Board of Pharmacy. Existing law authorizes the board to appoint an executive officer. Under existing law, the board and its authority to appoint an executive officer will be repealed on January 1, 2013. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would extend the operation of the California State Board of Pharmacy and its authority to appoint an executive officer until January 1, 2017, and would specify that the board is subject to review by the appropriate policy committees of the Legislature.

(2) Existing law provides for the licensure and regulation of court reporters by the Court Reporters Board of California within the Department of Consumer Affairs. Existing law authorizes this board to appoint an executive officer and committees as necessary. Existing law repeals these provisions on January 1, 2013.

This bill would extend the operation of these provisions until January 1, 2017, and would specify that the board is subject to review by the appropriate policy committees of the Legislature.

Existing law requires, until January 1, 2013, certain fees and revenues collected by the board to be deposited into the Transcript Reimbursement Fund, to be available to provide reimbursement for the cost of providing shorthand reporting services to low-income litigants in civil cases. Existing law authorizes, until January 1, 2013, low-income persons appearing pro se to apply for funds from the Transcript Reimbursement Fund, subject to specified requirements and limitations. Existing law requires the board, until January 1, 2013, to publicize the availability of the fund to prospective applicants. Existing law requires the unencumbered funds remaining in the Transcript Reimbursement Fund as of January 1, 2013, to be transferred to the Court Reporters' Fund.

This bill would extend the operation of these provisions until January 1, 2017, and would make a technical change to these provisions. By extending the operation of the Transcript Reimbursement Fund, which is a continuously appropriated fund, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4001 of the Business and Professions
2 Code is amended to read:
3 4001. (a) There is in the Department of Consumer Affairs a
4 California State Board of Pharmacy in which the administration
5 and enforcement of this chapter is vested. The board consists of
6 13 members.
7 (b) The Governor shall appoint seven competent pharmacists
8 who reside in different parts of the state to serve as members of
9 the board. The Governor shall appoint four public members, and
10 the Senate Committee on Rules and the Speaker of the Assembly
11 shall each appoint a public member who shall not be a licensee of
12 the board, any other board under this division, or any board referred
13 to in Section 1000 or 3600.
14 (c) At least five of the seven pharmacist appointees to the board
15 shall be pharmacists who are actively engaged in the practice of
16 pharmacy. Additionally, the membership of the board shall include

1 at least one pharmacist representative from each of the following
2 practice settings: an acute care hospital, an independent community
3 pharmacy, a chain community pharmacy, and a long-term health
4 care or skilled nursing facility. The pharmacist appointees shall
5 also include a pharmacist who is a member of a labor union that
6 represents pharmacists. For the purposes of this subdivision, a
7 “chain community pharmacy” means a chain of 75 or more stores
8 in California under the same ownership, and an “independent
9 community pharmacy” means a pharmacy owned by a person or
10 entity who owns no more than four pharmacies in California.

11 (d) Members of the board shall be appointed for a term of four
12 years. No person shall serve as a member of the board for more
13 than two consecutive terms. Each member shall hold office until
14 the appointment and qualification of his or her successor or until
15 one year shall have elapsed since the expiration of the term for
16 which the member was appointed, whichever first occurs.
17 Vacancies occurring shall be filled by appointment for the
18 unexpired term.

19 (e) Each member of the board shall receive a per diem and
20 expenses as provided in Section 103.

21 (f) This section shall remain in effect only until January 1, 2017,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before January 1, 2017, deletes or extends that date.
24 Notwithstanding any other provision of law, the repeal of this
25 section renders the board subject to review by the appropriate
26 policy committees of the Legislature.

27 SEC. 2. Section 4003 of the Business and Professions Code is
28 amended to read:

29 4003. (a) The board, with the approval of the director, may
30 appoint a person exempt from civil service who shall be designated
31 as an executive officer and who shall exercise the powers and
32 perform the duties delegated by the board and vested in him or her
33 by this chapter. The executive officer may or may not be a member
34 of the board as the board may determine.

35 (b) The executive officer shall receive the compensation as
36 established by the board with the approval of the Director of
37 Finance. The executive officer shall also be entitled to travel and
38 other expenses necessary in the performance of his or her duties.

1 (c) The executive officer shall maintain and update in a timely
2 fashion records containing the names, titles, qualifications, and
3 places of business of all persons subject to this chapter.

4 (d) The executive officer shall give receipts for all money
5 received by him or her and pay it to the department, taking its
6 receipt therefor. Besides the duties required by this chapter, the
7 executive officer shall perform other duties pertaining to the office
8 as may be required of him or her by the board.

9 (e) This section shall remain in effect only until January 1, 2017,
10 and as of that date is repealed, unless a later enacted statute, that
11 is enacted before January 1, 2017, deletes or extends that date.

12 SEC. 3. Section 8000 of the Business and Professions Code is
13 amended to read:

14 8000. (a) There is in the Department of Consumer Affairs a
15 Court Reporters Board of California, which consists of five
16 members, three of whom shall be public members and two of
17 whom shall be holders of certificates issued under this chapter
18 who have been actively engaged as shorthand reporters within this
19 state for at least five years immediately preceding their
20 appointment.

21 (b) This section shall remain in effect only until January 1, 2017,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before January 1, 2017, deletes or extends that date.

24 (c) Notwithstanding any other provision of law, the repeal of
25 this section renders the board subject to review by the appropriate
26 policy committees of the Legislature.

27 SEC. 4. Section 8005 of the Business and Professions Code is
28 amended to read:

29 8005. The Court Reporters Board of California is charged with
30 the executive functions necessary for effectuating the purposes of
31 this chapter. It may appoint committees as it deems necessary or
32 proper. The board may appoint, prescribe the duties, and fix the
33 salary of an executive officer. Except as provided by Section 159.5,
34 the board may also employ other employees as may be necessary,
35 subject to civil service and other provisions of law.

36 This section shall remain in effect only until January 1, 2017,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before January 1, 2017, deletes or extends that date.

39 SEC. 5. Section 8027 of the Business and Professions Code is
40 amended to read:

1 8027. (a) As used in this section, “school” means a court
2 reporter training program or an institution that provides a course
3 of instruction approved by the board and the Bureau for Private
4 Postsecondary Education, is a public school in this state, or is
5 accredited by the Western Association of Schools and Colleges.

6 (b) A court reporting school shall be primarily organized to train
7 students for the practice of shorthand reporting, as defined in
8 Sections 8016 and 8017. Its educational program shall be on the
9 postsecondary or collegiate level. It shall be legally organized and
10 authorized to conduct its program under all applicable laws of the
11 state, and shall conform to and offer all components of the
12 minimum prescribed course of study established by the board. Its
13 records shall be kept and shall be maintained in a manner to render
14 them safe from theft, fire, or other loss. The records shall indicate
15 positive daily and clock-hour attendance of each student for all
16 classes, apprenticeship and graduation reports, high school
17 transcripts or the equivalent or self-certification of high school
18 graduation or the equivalent, transcripts of other education, and
19 student progress to date, including all progress and counseling
20 reports.

21 (c) Any school intending to offer a program in court reporting
22 shall notify the board within 30 days of the date on which it
23 provides notice to, or seeks approval from, the State Department
24 of Education, the Bureau for Private Postsecondary and Vocational
25 Education, the Office of the Chancellor of the California
26 Community Colleges, or the Western Association of Schools and
27 Colleges, whichever is applicable. The board shall review the
28 proposed curriculum and provide the school tentative approval, or
29 notice of denial, within 60 days of receipt of the notice. The school
30 shall apply for provisional recognition pursuant to subdivision (d)
31 within no more than one year from the date it begins offering court
32 reporting classes.

33 (d) The board may grant provisional recognition to a new court
34 reporting school upon satisfactory evidence that it has met all of
35 the provisions of subdivision (b) and this subdivision. Recognition
36 may be granted by the board to a provisionally recognized school
37 after it has been in continuous operation for a period of no less
38 than three consecutive years from the date provisional recognition
39 was granted, during which period the school shall provide
40 satisfactory evidence that at least one person has successfully

1 completed the entire course of study established by the board and
2 complied with the provisions of Section 8020, and has been issued
3 a certificate to practice shorthand reporting as defined in Sections
4 8016 and 8017. The board may, for good cause shown, extend the
5 three-year provisional recognition period for not more than one
6 year. Failure to meet the provisions and terms of this section shall
7 require the board to deny recognition. Once granted, recognition
8 may be withdrawn by the board for failure to comply with all
9 applicable laws and regulations.

10 (e) Application for recognition of a court reporting school shall
11 be made upon a form prescribed by the board and shall be
12 accompanied by all evidence, statements, or documents requested.
13 Each branch, extension center, or off-campus facility requires
14 separate application.

15 (f) All recognized and provisionally recognized court reporting
16 schools shall notify the board of any change in school name,
17 address, telephone number, responsible court reporting program
18 manager, owner of private schools, and the effective date thereof,
19 within 30 days of the change. All of these notifications shall be
20 made in writing.

21 (g) A school shall notify the board in writing immediately of
22 the discontinuance or pending discontinuance of its court reporting
23 program or any of the program's components. Within two years
24 of the date this notice is sent to the board, the school shall
25 discontinue its court reporting program in its entirety. The board
26 may, for good cause shown, grant not more than two one-year
27 extensions of this period to a school. If a student is to be enrolled
28 after this notice is sent to the board, a school shall disclose to the
29 student the fact of the discontinuance or pending discontinuance
30 of its court reporting program or any of its program components.

31 (h) The board shall maintain a roster of currently recognized
32 and provisionally recognized court reporting schools, including,
33 but not limited to, the name, address, telephone number, and the
34 name of the responsible court reporting program manager of each
35 school.

36 (i) The board shall maintain statistics that display the number
37 and passing percentage of all first-time examinees, including, but
38 not limited to, those qualified by each recognized or provisionally
39 recognized school and those first-time examinees qualified by
40 other methods as defined in Section 8020.

1 (j) Inspections and investigations shall be conducted by the
2 board as necessary to carry out this section, including, but not
3 limited to, unannounced site visits.

4 (k) All recognized and provisionally recognized schools shall
5 print in their school or course catalog the name, address, and
6 telephone number of the board. At a minimum, the information
7 shall be in 8-point bold type and include the following statement:

8
9 “IN ORDER FOR A PERSON TO QUALIFY FROM A
10 SCHOOL TO TAKE THE STATE LICENSING EXAMINATION,
11 THE PERSON SHALL COMPLETE A PROGRAM AT A
12 RECOGNIZED SCHOOL. FOR INFORMATION CONCERNING
13 THE MINIMUM REQUIREMENTS THAT A COURT
14 REPORTING PROGRAM MUST MEET IN ORDER TO BE
15 RECOGNIZED, CONTACT: THE COURT REPORTERS
16 BOARD OF CALIFORNIA; (ADDRESS); (TELEPHONE
17 NUMBER).”
18

19 (l) Each court reporting school shall file with the board, not
20 later than June 30 of each year, a current school catalog that shows
21 all course offerings and staff, and for private schools, the owner,
22 except that where there have been no changes to the catalog within
23 the previous year, no catalog need be sent. In addition, each school
24 shall also file with the board a statement certifying whether the
25 school is in compliance with all statutes and the rules and
26 regulations of the board, signed by the responsible court reporting
27 program manager.

28 (m) A school offering court reporting shall not make any written
29 or verbal claims of employment opportunities or potential earnings
30 unless those claims are based on verified data and reflect current
31 employment conditions.

32 (n) If a school offers a course of instruction that exceeds the
33 board’s minimum requirements, the school shall disclose orally
34 and in writing the board’s minimum requirements and how the
35 course of instruction differs from those criteria. The school shall
36 make this disclosure before a prospective student executes an
37 agreement obligating that person to pay any money to the school
38 for the course of instruction. The school shall also make this
39 disclosure to all students enrolled on January 1, 2002.

(o) Private and public schools shall provide each prospective student with all of the following and have the prospective student sign a document that shall become part of that individual's permanent record, acknowledging receipt of each item:

(1) A student consumer information brochure published by the board.

(2) A list of the school's graduation requirements, including the number of tests, the pass point of each test, the speed of each test, and the type of test, such as jury charge or literary.

(3) A list of requirements to qualify for the state-certified shorthand reporter licensing examination, including the number of tests, the pass point of each test, the speed of each test, and the type of test, such as jury charge or literary, if different than those requirements listed in paragraph (2).

(4) A copy of the school's board-approved benchmarks for satisfactory progress as identified in subdivision (u).

(5) A report showing the number of students from the school who qualified for each of the certified shorthand reporter licensing examinations within the preceding two years, the number of those students that passed each examination, the time, as of the date of qualification, that each student was enrolled in court reporting school, and the placement rate for all students that passed each examination.

(6) On and after January 1, 2005, the school shall also provide to prospective students the number of hours each currently enrolled student who has qualified to take the next licensing test, exclusive of transfer students, has attended court reporting classes.

(p) All enrolled students shall have the information in subdivisions (n) and (o) on file no later than June 30, 2005.

(q) Public schools shall provide the information in subdivisions (n) and (o) to each new student the first day he or she attends theory or machine speed class, if it was not provided previously.

(r) Each enrolled student shall be provided written notification of any change in qualification or graduation requirements that is being implemented due to the requirements of any one of the school's oversight agencies. This notice shall be provided to each affected student at least 30 days before the effective date of the change and shall state the new requirement and the name, address, and telephone number of the agency that is requiring it of the school. Each student shall initial and date a document

1 acknowledging receipt of that information and that document, or
2 a copy thereof, shall be made part of the student's permanent file.

3 (s) Schools shall make available a comprehensive final
4 examination in each academic subject to any student desiring to
5 challenge an academic class in order to obtain credit towards
6 certification for the state licensing examination. The points required
7 to pass a challenge examination shall not be higher than the
8 minimum points required of other students completing the
9 academic class.

10 (t) An individual serving as a teacher, instructor, or reader shall
11 meet the qualifications specified by regulation for his or her
12 position.

13 (u) Each school shall provide a substitute teacher or instructor
14 for any class for which the teacher or instructor is absent for two
15 consecutive days or more.

16 (v) The board has the authority to approve or disapprove
17 benchmarks for satisfactory progress which each school shall
18 develop for its court reporting program. Schools shall use only
19 board-approved benchmarks to comply with the provisions of
20 paragraph (4) of subdivision (o) and subdivision (u).

21 (w) Each school shall counsel each student a minimum of one
22 time within each 12-month period to identify the level of attendance
23 and progress, and the prognosis for completing the requirements
24 to become eligible to sit for the state licensing examination. If the
25 student has not progressed in accordance with the board-approved
26 benchmarks for that school, the student shall be counseled a
27 minimum of one additional time within that same 12-month period.

28 (x) The school shall provide to the board, for each student
29 qualifying through the school as eligible to sit for the state licensing
30 examination, the number of hours the student attended court
31 reporting classes, both academic and machine speed classes,
32 including theory.

33 (y) The pass rate of first-time examination takers for each school
34 offering court reporting shall meet or exceed the average pass rate
35 of all first-time test takers for a majority of examinations given
36 for the preceding three years. Failure to do so shall require the
37 board to conduct a review of the program. In addition, the board
38 may place the school on probation and may withdraw recognition
39 if the school continues to place below the above-described standard
40 on the two examinations that follow the three-year period.

1 (z) A school shall not require more than one 10-minute
2 qualifying examination, as defined in the regulations of the board,
3 for a student to be eligible to sit for the state certification
4 examination.

5 (aa) A school shall provide the board the actual number of hours
6 of attendance for each applicant the school qualifies for the state
7 licensing examination.

8 (ab) The board shall, by December 1, 2001, do the following
9 by regulation as necessary:

10 (1) Establish the format that shall be used by schools to report
11 tracking of all attendance hours and actual timeframes for
12 completed coursework.

13 (2) Require schools to provide a minimum of 10 hours of live
14 dictation class each school week for every full-time student.

15 (3) Require schools to provide students with the opportunity to
16 read back from their stenographic notes a minimum of one time
17 each day to his or her instructor.

18 (4) Require schools to provide students with the opportunity to
19 practice with a school-approved speed-building audio recording,
20 or other assigned material, a minimum of one hour per day after
21 school hours as a homework assignment and provide the notes
22 from this audio recording to their instructor the following day for
23 review.

24 (5) Develop standardization of policies on the use and
25 administration of qualifier examinations by schools.

26 (6) Define qualifier examination as follows: the qualifier
27 examination shall consist of 4-voice testimony of 10-minute
28 duration at 200 words per minute, graded at 97.5 percent accuracy,
29 and in accordance with the guidelines followed by the board.
30 Schools shall be required to date and number each qualifier and
31 announce the date and number to the students at the time of
32 administering the qualifier. All qualifiers shall indicate the actual
33 dictation time of the test and the school shall catalog and maintain
34 the qualifier for a period of not less than three years for the purpose
35 of inspection by the board.

36 (7) Require schools to develop a program to provide students
37 with the opportunity to interact with professional court reporters
38 to provide skill support, mentoring, or counseling that they can
39 document at least quarterly.

1 (8) Define qualifications and educational requirements required
2 of instructors and readers that read test material and qualifiers.

3 (ac) The board shall adopt regulations to implement the
4 requirements of this section not later than September 1, 2002.

5 (ad) The board may recover costs for any additional expenses
6 incurred under the enactment amending this section in the 2001–02
7 Regular Session of the Legislature pursuant to its fee authority in
8 Section 8031.

9 SEC. 6. Section 8030.2 of the Business and Professions Code
10 is amended to read:

11 8030.2. (a) To provide shorthand reporting services to
12 low-income litigants in civil cases, who are unable to otherwise
13 afford those services, funds generated by fees received by the board
14 pursuant to subdivision (c) of Section 8031 in excess of funds
15 needed to support the board's operating budget for the fiscal year
16 in which a transfer described below is made shall be used by the
17 board for the purpose of establishing and maintaining a Transcript
18 Reimbursement Fund. The Transcript Reimbursement Fund shall
19 be established by a transfer of funds from the Court Reporters'
20 Fund in the amount of three hundred thousand dollars (\$300,000)
21 at the beginning of each fiscal year. Notwithstanding any other
22 provision of this article, a transfer to the Transcript Reimbursement
23 Fund in excess of the fund balance established at the beginning of
24 each fiscal year shall not be made by the board if the transfer will
25 result in the reduction of the balance of the Court Reporters' Fund
26 to an amount less than six months' operating budget.

27 (b) All moneys held in the Court Reporters' Fund on the
28 effective date of this section in excess of the board's operating
29 budget for the 1996–97 fiscal year shall be used as provided in
30 subdivision (a).

31 (c) Refunds and unexpended funds that are anticipated to remain
32 in the Transcript Reimbursement Fund at the end of the fiscal year
33 shall be considered by the board in establishing the fee assessment
34 pursuant to Section 8031 so that the assessment shall maintain the
35 level of funding for the Transcript Reimbursement Fund, as
36 specified in subdivision (a), in the following fiscal year.

37 (d) The Transcript Reimbursement Fund is hereby created in
38 the State Treasury. Notwithstanding Section 13340 of the
39 Government Code, moneys in the Transcript Reimbursement Fund
40 are continuously appropriated for the purposes of this chapter.

1 (e) (1) Applicants, including applicants pursuant to Section
2 8030.5, who have been reimbursed pursuant to this chapter for
3 services provided to litigants and who are awarded court costs or
4 attorney's fees by judgment or by settlement agreement shall refund
5 the full amount of that reimbursement to the fund within 90 days
6 of receipt of the award or settlement.

7 (2) An applicant pursuant to Section 8030.5 who has been
8 reimbursed for services provided to litigants under this chapter
9 shall refund the full amount reimbursed if a court orders the
10 applicant's fee waiver withdrawn or denied retroactively pursuant
11 to Section 68636 of the Government Code, within 90 days of the
12 court's order withdrawing or denying the fee waiver.

13 (f) Subject to the limitations of this chapter, the board shall
14 maintain the fund at a level that is sufficient to pay all qualified
15 claims. To accomplish this objective, the board shall utilize all
16 refunds, unexpended funds, fees, and any other moneys received
17 by the board.

18 (g) Notwithstanding Section 16346 of the Government Code,
19 all unencumbered funds remaining in the Transcript
20 Reimbursement Fund as of January 1, 2017, shall be transferred
21 to the Court Reporters' Fund.

22 (h) This section shall remain in effect only until January 1, 2017,
23 and as of that date is repealed, unless a later enacted statute, that
24 is enacted before January 1, 2017, deletes or extends that date.

25 SEC. 7. Section 8030.5 of the Business and Professions Code
26 is amended to read:

27 8030.5. (a) Notwithstanding subdivision (e) of Section 8030.4,
28 as used in this chapter the term "applicant" also means an indigent
29 person, as defined in subdivision (f) of Section 8030.4, appearing
30 pro se to represent himself or herself at any stage of the case and
31 applying to receive funds from the Transcript Reimbursement
32 Fund established by this chapter.

33 (b) Notwithstanding Section 8030.6, total disbursements to
34 cover the cost of providing transcripts to all applicants pursuant
35 to this section shall not exceed thirty thousand dollars (\$30,000)
36 annually and shall not exceed one thousand five hundred dollars
37 (\$1,500) per case.

38 (c) The board shall provide a report to the Senate and Assembly
39 Committees on Judiciary by March 1, 2012, that includes a
40 summary of the expenditures and claims relating to this article,

1 including the initial fund balance as of January 1, 2011; all funds
2 received, including the amount of, and reason for, any refunds
3 pursuant to subdivision (e) of Section 8030.2; all claims received,
4 including the type of case, court involved, service for which
5 reimbursement was sought, amount paid, and amount denied, if
6 any, and the reason for denial; and all administrative fees. This
7 report shall be provided using existing resources.

8 (d) The Legislature finds and declares that there are funds
9 available for indigent pro se parties under this article only because
10 the Transcript Reimbursement Fund has not been fully utilized in
11 recent years by the eligible applicants for whom its use has been
12 intended, despite the evident financial need among legal services
13 organizations and pro bono attorneys. Accordingly, the board shall,
14 using existing resources, undertake further efforts to publicize the
15 availability of the Transcript Reimbursement Fund to prospective
16 applicants, as defined in subdivision (e) of Section 8030.4, through
17 appropriate entities serving these applicants, including the State
18 Bar of California, the California Commission on Access to Justice,
19 and the Legal Aid Association of California. These efforts shall
20 be described in the report required by subdivision (c).

21 (e) This section shall remain in effect only until January 1, 2017,
22 and as of that date is repealed, unless a later enacted statute that
23 is enacted before January 1, 2017, deletes or extends that date.